

Attachment 1



U.S. DEPARTMENT OF AGRICULTURE

June 30, 2025

The Honorable Heidi Hedberg
Commissioner
Alaska Department of Health
3601 C Street, Suite 902
Anchorage, Alaska 99503

Dear Commissioner Hedberg:

Today, the U.S. Department of Agriculture (USDA) is releasing the official Supplemental Nutrition Assistance Program (SNAP) overpayment, underpayment, and payment error rates for Fiscal Year (FY) 2024, as required under the quality control (QC) provisions of Section 16(c) of the Food and Nutrition Act of 2008, as amended (the Act).

The SNAP national performance measure (national average payment error rate) for FY 2024 is 10.93 percent. Alaska's payment error rate is the sum of the overpayment rate and the underpayment rate, though these rates may not add up to the exact payment error rate due to rounding.

Alaska's QC error rates for FY 2024 are:

Overpayment Rate	22.50	percent
Underpayment Rate	2.16	percent
Payment Error Rate	24.66	percent

Under the Act, a 2-year liability system is in place, which requires USDA to establish a liability amount when, for the second or subsequent consecutive FY, the department determines there is a 95 percent statistical probability that a State's payment error rate exceeds 105 percent of the national performance measure.

On June 28, 2024, Alaska was notified its FY 2023 payment error rate placed it at risk for a financial liability if USDA determined it to be in liability status again for FY 2024. For FY 2024, USDA determined there is a 95 percent statistical probability that Alaska's payment error rate of 24.66 percent exceeds 105 percent of the national performance measure. FY 2024 is the second consecutive year Alaska exceeded 105 percent of the national performance measure. Consequently, a liability amount of \$4,621,053 is being established for Alaska for FY 2024. In accordance with Section 16(c)(8)(C)(iii) of the Act, the Governor and Legislative bodies of Alaska have also been advised of the error rates and the liability amount.

Office of the Under Secretary for Food, Nutrition, and Consumer Services
1400 Independence Avenue, SW, Washington, DC 20250-9600
USDA is an Equal Opportunity Provider, Employer, and Lender

The Honorable Heidi Hedberg

Page 2

Please see the enclosed documents for Alaska's Notice of Claim/Bill for Collection for the full liability amount as well as more details about your State's settlement and appeal options. In addition, Alaska must fulfill its FY 2023 QC related new investment requirements and is required to pay the at-risk amount of \$5,954,328 from your FY 2023 liability, which will be sent under separate cover by the Western Regional Office.

If USDA determines Alaska's FY 2025 payment error rate has a 95 percent statistical probability that it exceeds 105 percent of the national performance measure for FY 2025, and the rate is six percent or greater, a FY 2025 liability amount will be established.

Alaska's proper administration of SNAP is essential to ensuring the Program operates efficiently, effectively, and with integrity and accountability. The Western Regional Office is your partner in reducing payment error rates. Together, we are stewards of the taxpayer's money, and our collaborative efforts will serve to improve program integrity. As Secretary Brooke Rollins wrote in her February 13, 2025, letter to government partners that administer USDA's nutrition assistance programs, we have before us a historic opportunity to improve nutrition programs to both better serve individuals who need additional support and to lift millions of Americans out of dependency into hopeful futures. Consistent with the Secretary's vision for nutrition programs, it is imperative that we take swift action to minimize instances of fraud, waste, and program abuse.

If you have any questions or need more information, please call your Regional Administrator, Dr. Muzafar Makhdoomi, at (415) 705-1337.

Regards,



Patrick Penn
Deputy Under Secretary
Food, Nutrition, and Consumer Services
U.S. Department of Agriculture

Enclosures

BILL FOR COLLECTION

USDA-FOOD AND NUTRITION SERVICE
1320 Braddock Place
Alexandria, VA 22314

Date: June 30, 2025

Payer: The Honorable Heidi Hedberg
Commissioner
Alaska Department of Health
3601 C Street, Suite 902
Anchorage, Alaska 99503

Symbol	Description	Total Amount
121099	FY24 QC LIABILITY	\$4,621,053.00

Make check payable to: USDA - FNS – HQ

Please send payment to: USDA - FNS - HQ
P.O. Box 979027
St. Louis, MO 63197-9000

Payment is due within 30 days of the date of this bill. Interest at 5.0% per annum, computed monthly, will be charged on the unpaid balance, and will accrue from the date of this bill. However, interest charges will be waived on the debt or any portion of the debt paid within 30 days of the original billing.

PLEASE RETURN THIS PORTION WITH PAYMENT

FY 2024 QC Liability
Amount Paid _____

Vendor:

Alaska Department of Health
3601 C Street, Suite 902
Anchorage, Alaska 99503

Mail Payment to:
USDA - FNS - HQ
P.O. Box 979027
St. Louis, MO 63197-9000

Make payment to USDA-FNS-HQ by check, money order. Address inquiries to: USDA - Food and Nutrition Service, FM, Accounting Division, Attn: Mfon Umoh, 1320 Braddock Place, Alexandria, VA 22314. email: Mfon.Umoh@usda.gov

**The Supplemental Nutrition Assistance Program (SNAP)
Error Rate Liability Process for FY 2024**

Notification

USDA is required by Section 16(c)(8)(C) of the Food and Nutrition Act of 2008, as amended, (the Act) to notify State agencies of payment claims or liability amounts. The Agricultural Act of 2014 removed USDA's authority to waive any portion of a State's financial liability. On June 28, 2024, your State was notified FNS determined it was in a liability status for FY 2023 and that a liability amount would be established if a liability status was determined again for the FY 2024 payment error rate and the rate was six percent or greater. Your State has been assessed a financial liability for FY 2024 and this document provides your settlement and appeal options to resolve the liability amount.

Settlement Options

Your State has two options to resolve the liability amount with FNS. Your State may pay the liability amount in full or your State may designate 50 percent of the liability amount for new investment in FNS-approved activities to improve administration of SNAP and designate 50 percent of the liability amount as at-risk for repayment if a liability amount is established for FY 2025. If your State opts to proceed with the 50/50 settlement option, please sign the FNS-signed settlement agreement and electronically mail a copy of the signed agreement to your FNS regional office by September 30, 2025, following requirements at 7 CFR 275.23(e). Please note, new investment plans are due 90 days after signing the settlement agreement.

Appeal Process

The liability determination and associated amount are eligible for appeal following Section 16(c) of the Act. If a State agency decides to pursue an appeal, it must file a notice of appeal within 10 days of receipt of this notice of liability amount and the enclosed Notice of Claim/Bill for Collection (7 CFR 283.4). However, the statute further provides that this time period may be extended for cause if so determined by USDA's Office of the Administrative Law Judges (OALJ). In accordance with 7 CFR 283.22(f) of the SNAP regulations, a request for an extension must be submitted to the OALJ prior to the original due date.

The notice of appeal or a request for an extension shall be filed with the Hearing Clerk by mail or electronically to U.S. Department of Agriculture, Office of Administrative Law Judges, 1400 Independence Avenue SW; Stop 9203, Room 1031, South Building; Washington, D.C. 20250-9203 or SM.OHA.HearingClerks@USDA.GOV within 10 days of receipt of this notice of liability amount and the enclosed Notice of Claim/Bill for Collection.

If your State files a notice of appeal within 10 days of receipt of this notice of liability amount and the enclosed Notice of Claim/Bill for Collection, the State's petition providing factual arguments in support of its appeal must be filed within 60 days of receipt of this notice. Should the appeal process result in the State agency signing either the original settlement agreement or a new one, a new deadline for submitting the signed agreements will be provided. See Section 16(c)(8)(D)(ii) of the Act and 7 CFR 275.23(f).

Future Actions

If FNS determines for FY 2025 that there is a 95 percent statistical probability that your State's payment error rate exceeds 105 percent of the national performance measure and the rate is six percent or greater, FNS will establish a FY 2025 liability amount for your State, and, if your State chooses to sign the FY 2024 settlement agreement, your State will be liable for paying FNS the FY 2024 at-risk amount.

SETTLEMENT AGREEMENT

The Alaska Department of Health ("State") and the Secretary of Agriculture ("Secretary") agree, as stated in this settlement agreement ("Agreement"), to settle the Supplemental Nutrition Assistance Program ("SNAP") payment error rate liability amount ("Liability Amount"), Federal Fiscal Year 2024 ("FFY 2024"), for the State established pursuant to Section 16(c)(l)(C) of the Food and Nutrition Act of 2008, as amended ("Act"). This Agreement is entered into pursuant to Sections 13(a)(l) and 16(c)(l)(D)(ii) of the Act.

[1] Pursuant to Section 16(c)(l)(C) of the Act, for FFY 2024, the Secretary has established a Liability Amount of \$4,621,053 for the State. Pursuant to Section 16(c)(l)(D)(i)(I) of the Act, the Secretary has determined that \$2,310,526.50, which is fifty (50) percent of the Liability Amount, be used by the State for new investment ("New Investment Amount"), and determined that the remaining \$2,310,526.50 is an at-risk amount ("At-Risk Amount") that would be paid to the Secretary in accordance with Section 16(c)(l)(D)(i)(II) of the Act in the following FFY if a liability amount is again established for FFY 2025. The At-Risk Amount is not affected by this Agreement.

[2] The State agrees to invest a New Investment Amount, totaling \$2,310,526.50, which is fifty (50) percent of the FFY 2024 Liability Amount established for the State, in mutually agreed upon activities for improving SNAP administration within the State. This New Investment Amount shall not be eligible for Federal matching dollars and shall be in addition to the cost of the minimum program administration required by law and regulation. For the purpose of complying with this Agreement, the State may not transfer or borrow funds from existing SNAP operational activities to fund New Investment Activities.

[3] The State shall submit a proposed New Investment Plan to the Secretary within ninety (90) days of the effective date of this Agreement. The New Investment Plan shall state how the New Investment Amount will be expended by the State. The New Investment Plan and any modifications to the plan are incorporated as addenda into this Agreement.

[4] Costs of investment activities funded by the New Investment Amount shall be allocated in accordance with the State's approved New Investment Plan. One hundred percent of the funds invested by the State under this Agreement may be credited as SNAP administrative expenditures so long as the approved activities are aimed at improving SNAP administration, regardless of whether other State programs may also benefit from investments.

[5] Once the State completes an investment expenditure as part of the New Investment Plan, the expenditure is final and not subject to any future adjustment due to subsequent changes in law. In the event that the State fails to make the expenditures necessary to satisfy the terms of this Agreement, or fails to comply in whole or in part with the New Investment Plan required in paragraph [3], the Secretary shall collect from the State the unpaid cash payments or the amount of funds not timely invested according to the New Investment Plan, by withholding such funds pursuant to Section 13(a)(l) of the Act from amounts that would otherwise be payable to the State by the Secretary.

[6] Any monies expended by the State for administrative purposes described in Section 16(a) of the Act that are in addition to, and exceed, the amount of the New Investment Amount stated in paragraph [1] may be eligible for Federal matching funds.

[7] The State shall provide progress reports, as requested by the Secretary, concerning the State's compliance with the terms of this Agreement, the expenditure of funds, and the efforts of the State to improve SNAP program administration.

[8] This Agreement shall constitute complete settlement and satisfaction of all administrative claims and causes of action which have been or could have been asserted by the State against the Secretary, or by the Secretary against the State, relating to the State's Liability Amount (including New Investment Amount) for FFY 2024.

[9] This Agreement shall only affect the State's SNAP payment error rate Liability Amount for FFY 2024, and shall not affect any liability of the State in future years for exceeding the national performance measure payment error rate in accordance with Section 16(c)(1)(C) of the Act.

[10] This Agreement may be signed in separate counterparts and shall become effective only upon the signature affixed by the representatives of the Secretary and the State.

[11] If the State does not appeal its FFY 2024 liability amount and enters into this agreement, this Agreement shall be signed by the State and submitted to the Western Regional Office by September 30, 2025.

[12] If the State appeals its FFY 2024 liability amount and it results in the State agency agreeing to this original settlement agreement, a new sign-by date will be provided separately.

AGREED:

Date: June 30, 2025



On Behalf of the Secretary:
James C. Miller
FNS Administrator
Food and Nutrition Service
U.S. Department of Agriculture

Date: _____

The Honorable Heidi Hedberg
Commissioner
Alaska Department of Health



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Health

DIVISION OF PUBLIC ASSISTANCE

Director's Office

P.O. Box 110640
Juneau, Alaska 99811-0640
Main: 907.465.3347
Fax: 907.465.5154

June 30, 2025

Charles Tobin
Regional Director
USDA Food and Nutrition Service
Western Regional Office
90 Seventh Street, Suite 10-100
San Francisco, CA 94103

Dear Mr. Tobin,

On behalf of the Alaska Department of Health, Division of Public Assistance, I am writing to notify you that Alaska will implement Broad-Based Categorical Eligibility (BBCE) for the Supplemental Nutrition Assistance Program (SNAP), effective July 1, 2025, for the August 2025 benefit month, in accordance with 7 CFR 273.2(j)(2)(ii).

Alaska House Bill 196 authorized the use of BBCE, which allows households to qualify for SNAP if their gross income is at or below 200 percent of the Federal Poverty Level (FPL). Households determined eligible under BBCE will not be subject to a resource test.

To confer categorical eligibility, Alaska will provide a TANF-funded non-cash benefit in the form of the "Support for You and Your Family" (X056) client notice. The notice is fully funded with federal TANF dollars and is designed to further Purpose 3 of the TANF block grant, which is to prevent and reduce the incidence of out-of-wedlock pregnancies, and Purpose 4, which is to encourage the formation and maintenance of two-parent families.

The X056 notice will be issued to SNAP applicant households whose gross income exceeds 130 percent of the FPL or who would otherwise be ineligible due to excess resources. These households must still meet all other SNAP eligibility criteria to qualify.

If you have any questions or need additional information, please contact Christina Davis at christina.davis@alaska.gov or Lydia Luchini at lydia.luchini@alaska.gov.

Sincerely,

A handwritten signature in black ink that reads "Deb Etheridge".

Deb Etheridge
Director
Division of Public Assistance
Alaska Department of Health



Food and Nutrition Service
U.S. DEPARTMENT OF AGRICULTURE

July 7, 2025

To: Regional Directors
All Food and Nutrition Service Programs
All Regions

State Directors
All Food and Nutrition Service Programs
All Regions

From: James C. Miller
Administrator
Food and Nutrition Service

Subject: Guidance on the Interpretation of Discrimination Based on “Sex” in USDA Child Nutrition Programs

The U.S. Department of Agriculture’s (USDA) Food and Nutrition Service (FNS) administers child nutrition programs that reduce hunger for vulnerable children including USDA’s National School Lunch Program. For each of several reasons set forth below, USDA has rescinded the Biden Administration’s May 2022 *Bostock* policy update that sought to require federally-funded food and nutrition service programs to redefine discrimination by reason of “sex” under Title IX of the Education Amendments of 1972 (Title IX) and the Food and Nutrition Act of 2008 (FNA) as not based on just male or female, but also “gender identity.” Today’s guidance eliminates the illegal threats issued under the Biden Administration that mandated compliance with ever-evolving concepts of gender ideology as a condition for participation in USDA school programs.

State agencies are reminded that, in 2024, the Supreme Court permitted injunctions to remain in place against the Biden Administration’s regulatory definition of sex discrimination under Title IX to include gender identity. *Department of Education v. Louisiana*, 603 U.S. 866 (2024). Likewise, the legal basis for the Biden Administration’s May 5, 2022, FNS *Bostock* Policy Update has been rejected by numerous recent federal court decisions. Courts have determined that discrimination based on “sex” does not, under Title IX, include discrimination on the basis of “gender identity.” *Adams v. Sch. Bd. of St. Johns Cnty.*, 57 F.4th 791, 812 (11th Cir. 2022) (*en banc*); *Tennessee v. Cardona*, 2025 WL 63795, at *3 (E.D. Ky. Jan. 9, 2025), as amended (Jan. 10, 2025) (“when Title IX is viewed in its entirety, it is abundantly clear that discrimination on the basis of sex means discrimination on the basis of being a male or female”); *Texas v. Cardona*, 743 F. Supp. 3d 824, 871 (N.D. Tex. 2024) (indicating that, in 1972, when Title IX was enacted, “ ‘sex’ carried an unambiguously binary meaning”), *appeal filed*, No. 24-10910 (5th Cir. Oct. 7, 2024); *Neese v. Becerra*, 640 F. Supp. 3d 668, 678 n.6 (N.D. Tex. 2022) (observing that, in 1972, “ ‘sex’ was commonly understood to refer to physiological differences between men and women – particularly with respect to reproductive functions”), *vacated*, 123 F.4th 751 (5th Cir. 2024), *reh’g denied*, 127 F.4th 601 (5th Cir. 2025). Accordingly, USDA

Food and Nutrition Service, Braddock Metro Center, 1320 Braddock Place, Alexandria, VA 22314

USDA is an equal opportunity provider, employer, and lender.

concluded the Biden Administration's May 5, 2022, FNS Bostock Policy Update was legally flawed. For this reason, USDA rescinds the May 2022 Bostock policy update and related guidance documents implementing that policy.¹

USDA determined that its rescission was a reasonable exercise of its discretion to avoid the litigation risk it faced as a defendant in *Rapides Parish School Board v. HHS, USDA, et al.*, no. 8:23-cv-00889-CEH, in which a public school board sued USDA, challenging the legality of the May 2022 policy update and related provisions. On July 2, 2025, the Department of Justice, on behalf of USDA, executed an agreement securing plaintiff's dismissal of its complaint against USDA, in exchange for USDA's rescission of the Biden Administration's May 2022 policy update and related documents and guidance.

USDA also concluded that its rescission of the May 2022 policy update and related documents and guidance will conserve resources by exercising its enforcement discretion to terminate pending compliance reviews and by avoiding the waste of resources on future reviews and potential litigation to the extent they would be based on the now-rescinded 2022 policy update.

USDA will therefore apply the interpretation under the binding principles and provisions of the Department of Education's 2020 Title IX Rule and USDA's longstanding Title IX regulations, which are themselves consistent with President Trump's Executive Order *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*.

Each of the foregoing reasons provided USDA with an independently sufficient reason to rescind the May 2022 Bostock policy update and related documents and guidance.

FNS therefore interprets "on the basis of sex" in Title IX of the Education Amendments of 1972 and other relevant sex-nondiscrimination laws to protect sex-based equality, which is at odds with the concept of gender ideology. USDA therefore has rescinded its 2022 policy update, which advanced an incorrect interpretation of discrimination on the basis of "sex" under Title IX in conflict with controlling sex discrimination law. *See, e.g., Louisiana*, 603 U.S. 866. This now-cancelled policy resulted in harmful impacts on child nutrition programs. Because USDA's 2022 policy update is rescinded in its entirety, state agencies, schools and other organizations administering FNS's child nutrition programs should cease any reliance on this incorrect, and now-rescinded 2022 USDA/FNS *Bostock* policy update.

Sincerely,



James C. Miller
Administrator
Food and Nutrition Service

¹ A list of the rescinded policy update and related guidance documents is attached.

Rescinded Documents

The following documents are withdrawn based on a change in administration policy consistent with Executive Order 14168:

1. USDA Memorandum from Roberto Contreras, Director of Civil Rights Division, Food and Nutrition Service, to Regional and State Directors Regarding CRD 01-2022 Application of Bostock v. Clayton County to Program Discrimination Complaint Processing—Policy Update (May 5, 2022)
2. USDA Memorandum from Food and Nutrition Service to Regional and State Directors Regarding Questions and Answers Related to CRD 01-2022 Application of Bostock v. Clayton County to Program Discrimination Complaint Processing—Policy Update (May 5, 2022); and
3. USDA Cover Letter from Roberto Contreras, Director of Civil Rights Division, Food and Nutrition Service, to Regional Program Directors and State Agencies Regarding Application of Bostock v. Clayton County to Program Discrimination Complaint Processing—Policy Update (May 5, 2022).